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GROUP 3600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Dave B. Lundahl

Examiner: Tran A, Phi Dieu N

Serial No.: 09/326,405

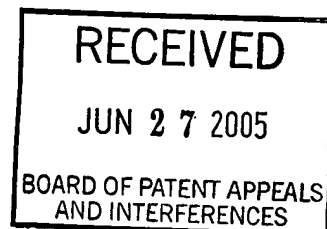
Group Art Unit: 3637

Filed: June 4, 1999

Docket: INOV.01US01

Title: IMPROVED WINDOW SCREEN SYSTEM

Mail Stop Appeal Brief - Patents
Assistant Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450



REPLY BRIEF

Honorable Board of Appeals:

Appellant responds to the Examiner's Answer dated June 2, 2004 as follows:

1. Under Section 10, paragraph 2, of the Examiner's Answer, the Examiner argues that the moving sash is in contact with the screen, as shown in figure 3 of Kehne. Appellant has examined figure 3 and there is a space shown between the screen frame 27 and the sash in figure 3 of Kehne. Further, the Kehne specification does not disclose that the screen and the sash are in contact. Claims 20 and 25 specifically claim the sash contacting the screen to engage the hook and loop fastener. By applying pressure to hook and loop fastener as a result of contact between the sash and window frame, the hook and loop fastener engages more fully and functions in an improved manner. These features have not shown or suggested in the prior art.
2. In Section 11, "Response to Argument," the Examiner argues that "more or less permanent" can also mean "temporary mounting manner". The Examiner cites no support for such an interpretation. Appellant, on the other hand, has cited Webster's

Dictionary, which defines more or less as “approximate.” A window screen that is “approximately permanent” does not mean that it is temporarily mounted, as argued by the Examiner. The Examiner’s arguments turn the description of the Kehne reference on its head in an attempt to ascribe a contrary meaning to the term “more or less permanent.” Further, the citation of the Washington Post article is irrelevant to this Appeal, does not constitute prior art and has not been applied against Appellant’s claims as part of a rejection.

3. The Examiner’s arguments in response to Appellant’s position that the principles of operation of Kehne and Lazarek would be changed by the suggested combination of these references, are not well founded. The principles of operation of Kehne and Lazarek are different. Kehne requires a rigid screen frame 27 to hold the screen 28 in the window frame 11. Lazarek requires no frame and will not work with a rigid frame. Modifying the Kehne screen 28 to remove the rigid frame 27 and attaching the screen using hook and loop fasteners changes the principle of operation of the Kehne screen, which requires a screen that is more or less permanent.

4. The Examiner’s arguments that the combination of Kehne and Lazarek is “encouraged and motivated” are also misplaced. Simply put, Kehne requires a rigid screen frame 27 that supports the screen 28. The screen frame 27 of Kehne is “more or less permanently fixed in the window.” Lazarek, on the other hand, shows a temporary screen that can be temporarily attached around the inside of a car door to keep insects out of the car. The Lazarek screen does not have a frame as asserted by the Examiner. There is no motivation to combine these different types of screens in the different types of applications disclosed in Kehne and Lazarek, i.e., casement window for houses in Kehne, versus a slide-up car window for cars in Lazarek,. These are two disparate applications for the use of screens. Further, Kehne and Lazarek disclose the use of screens in different locations with respect to the window,

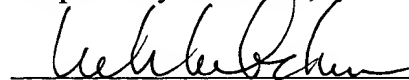
i.e., more or less permanently on an exterior frame surface in Kehne, versus temporarily on the inside of a car door in Lazarek. The combination suggested by the Examiner is an attempt to reconstruct Appellant's invention using hindsight.

5. The Examiner has failed to address the evidence that has been presented by Appellant in the affidavits that were submitted during prosecution, which show the success of the claimed invention based upon the advantages provided by the present invention. These advantages include the lack of sagging of Appellant's screen in large screen applications, lack of corrosion of metal screen frames that are not used by Appellant, and the overall aesthetic appearance of Appellant's screens because Appellant's screens eliminate the aluminum frame. Appellant's screens have been used in high-end applications, as pointed out in the submitted affidavit evidence, in which aesthetics (i.e., the elimination of aluminum frames) are an important factor. This evidence has been ignored by the Examiner. The affidavit evidence constitutes significant evidence of the non-obviousness of the claimed invention.

Appellant therefore requests the Board to consider these comments in response to the arguments set forth in the Examiner's Answer.

Dated this 12th day of July 2004.

Respectfully submitted,



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